

LET D90579

24

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

ROBB ENTERPRISES, LLC

v.

ALI BEYDOUN
and
VENOY VALERO GAS STATION

Plaintiff(s),

Case: 2:16-cv-11205
Judge: Cohn, Avern
MJ: Whalen, R. Steven
Filed: 04-01-2016 At 01:21 PM
CMP Robb Enterprises v Ali Beydoun
(wh)

Defendant(s).

COMPLAINT

I. Defendant(s). Print the full name for each defendant. If there are more defendants, use additional pages to provide their names.

Name of Defendant(s)

1. ALI BEYDOUN

2. VENOY VALERO GAS STATION

3.

4.

5.

II. Statement of claim. Briefly state the facts of your case. Describe how each defendant is involved, and exactly what each defendant did, or failed to do. Include names of any other persons involved, dates, and places. You may use additional paper if necessary.

SEE ATTACHMENT

III. Relief. Briefly state exactly what you want the court to do for you.

SEE ATTACHMENT

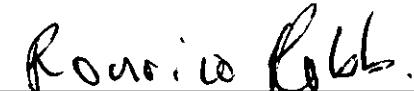
IV. Additional Information. – Briefly enter any additional information, you may use additional paper.

SEE ATTACHMENT

V. Demand for Jury Trial. Check this box if you want your case to be decided by a jury, instead of a judge.

Plaintiff demands a jury trial on all issues.

Dated: 03/31/2016


Plaintiff's Signature

ROBB ENTERPRISES, LLC

Plaintiff's Printed Name

244 Madison Avenue, Suite 313

Street Address

New York, NY 10016

City, State, Zip Code

646-242-1478

Telephone Number

ricorobb@gmail.com

E-mail Address

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
MICHIGAN SOUTHERN DIVISION

ROBB ENTERPRISES, LLC, a New York Limited Liability Company,

Plaintiff,

Civil No.

v.

Hon.

ALI BEYDOUN, an individual,

and

VENOY VALERO GAS STATION, a Michigan corporation

Defendantss.

ATTACHMENT TO COMPLAINT

STATEMENT OF CLAIM

NATURE AND SUBSTANCE OF THE ACTION

1. Plaintiff files this action against Defendants for trademark dilution, trademark infringement, and false designation under the Lanham Act (15 U.S.C. §1051 et seq.).
2. This lawsuit involves Defendants' intentional trading of Robb Enterprises' goodwill by using a trademark that is confusingly similar to a trademark that is duly registered by Robb Enterprises, namely, CHING-A-LING. A copy of Plaintiff's trademark details are attached hereto as Exhibit A.

3. Defendants' store, known as Venoy Valero Gas Station, with an address of 2910 Venoy Road, Wayne, Michigan, 48184, displays and sells goods similar in nature and packaging to Plaintiff's goods. A photograph of Plaintiff's and Defendants' goods is attached hereto as Exhibit B.

4. In bringing this lawsuit, Plaintiff seeks a temporary restraining order, a preliminary and permanent injunction, damages, treble damages, and attorneys' fees and costs.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over the federal trademark and trademark dilution claims under 28 U.S.C. §§1331 and 1338(a).

6. This action arises out of wrongful acts committed by Defendants in this judicial district and which subject Defendants to personal jurisdiction here. Because a substantial part of the events giving rise to these claims occurred in this judicial district, venue is proper under 28 U.S.C. §1391(b)(2). Moreover, Defendants knowingly and intentionally directed, targeted, and inflicted injurious consequences upon Plaintiff and other residents and citizens of the State of Michigan.

THE PARTIES

7. Plaintiff is a New York Limited Liability Company with its principal place of business in Manhattan, New York.

8. Defendants are a For-Profit Corporation in Wayne County, Michigan, and operating with an address of 2910 Venoy Road, Wayne, Michigan 48184.

FACTS COMMON TO ALL CLAIMS

Robb Enterprises Registered Trademark and Goodwill and Reputation

9. Plaintiff filed an application with the United States Patent and Trademark Office for the registration of the trademark CHING-A-LING on August 7, 2015 and such application has been published for opposition as of January 5, 2016. The United States Trademark Application and Status for the trademark CHING-A-LING are valid, unrevoked, subsisting, and incontestable, and constitute prima facie evidence of Plaintiff's exclusive ownership of the trademark CHING-A-LING.

10. Plaintiff has continuously used the trademark CHING-A-LING in connection with the promotion, advertising, and sale of dietary supplements since well before the acts of Defendants complained of herein.

11. Plaintiff has spent millions of dollars and has expended significant effort in advertising, promoting, and developing the trademark CHING-A-LING throughout the United States. As a result of such advertising and expenditures, Plaintiff has established considerable goodwill in the trademark CHING-A-LING. The trademark CHING-A-LING has become widely known and recognized throughout the United States as a symbol of high quality dietary supplements. The Trademark CHING-A-LING is well known and distinctive, and has become associated by the consuming public exclusively

with Robb Enterprises. The Trademark CHING-A-LING is an invaluable asset of substantial and inestimable worth to Plaintiff.

The Display and Sale of Products

12. The display and sale of goods that are confusingly similar in packaging, contents and name to that of Plaintiff's product constitute unfair competition, causes public confusion, as well as tarnishes Plaintiff's goodwill and reputation. The public recognizes, and often relies on the expectation, that goods with a similar name, packaging and contents with that of a company's goods are sponsored by, affiliated with, or somehow approved by that company.

Defendants' Infringements

13. Defendants knowingly and intentionally displayed and sold dietary supplements using packaging that is misleadingly similar to packaging used by Defendants for selling and displaying Plaintiff's dietary supplements. Defendants labelled his dietary supplements with the same name used by Plaintiff, namely, CHING-A-LING. Plaintiff's trademark registration application and status is attached to the Verified Complaint as Exhibit A. A photograph of the similar packages is attached to the Verified Complaint as Exhibit B.

14. Defendants is not in any way affiliated or associated with Robb Enterprises and has absolutely no right to display and sell its dietary supplements in a confusingly similar package and with the same name used by Plaintiff.

15. By displaying and selling goods with the same name as that used by Plaintiff, Defendants falsely represented and warranted that Defendants' use of the name CHING-A-LING did not interfere with the right of any third party, and that the name would not be used for any unlawful purpose.

16. Defendants' use of the name CHING-A-LING causes public confusion and tarnishes the goodwill and reputation of Plaintiff. In addition, the display and sale of a product with a name that uses the trademark of another company constitutes unfair competition.

FIRST CLAIM FOR RELIEF
(Trademark Dilution)

17. The allegations set forth above are incorporated herein by this reference.

18. The trademark CHING-A-LING is a famous trademark. The trademark CHING-A-LING is inherently distinctive and has acquired distinctiveness.

19. Plaintiff has extensively and exclusively used the trademark CHING-A-LING in commerce throughout the United States in connection with dietary supplements.

20. Defendants' unauthorized use of CHING-A-LING dilutes the distinctive quality of, and tarnishes, the famous trademark CHING-A-LING in violation of 15 U.S.C. §1125(c)(1).

21. Plaintiff is being irreparably harmed by Defendants' unlawful actions, and Plaintiff is entitled to an injunction prohibiting Defendants from using CHING-A-LING

to display and sell dietary supplements. Plaintiff has no adequate remedy at law that will compensate for the continued and irreparable harm it will suffer if Defendants' acts are allowed to continue.

22. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered damages in the amount of TWO MILLION, THREE HUNDRED THOUSAND DOLLARS. In addition, Plaintiff is entitled to its costs and attorneys' fees.

SECOND CLAIM FOR RELIEF
(Trademark Infringement)

23. The allegations set forth above are incorporated herein by this reference.

24. The trademark CHING-A-LING is inherently distinctive and has acquired secondary meaning. The public associates the trademark CHING-A-LING exclusively with Plaintiff's products. This is a result of the trademark CHING-A-LING inherent distinctiveness and of distinctiveness acquired through extensive advertising, sales, and use in commerce throughout the United States in connection with Plaintiff's dietary supplements bearing or using the trademark CHING-A-LING.

25. By Defendants' unauthorized and unlawful actions, Defendants has, without Plaintiff's consent, used and/or is using in commerce a reproduction, counterfeit, copy, or colorable imitation of the trademark CHING-A-LING. Defendants' actions are likely to cause confusion, or to cause mistake, or to deceive in violation of 15 U.S.C. § 1114(1).

26. By committing the acts alleged herein, Defendants has intentionally, knowingly, and willfully infringed Plaintiff's Marks.

27. Because of Defendants' infringement, Plaintiff has been irreparably harmed in its business. Moreover, Plaintiff will continue to suffer irreparable harm unless Defendants is restrained and enjoined from infringing Plaintiff's Marks. Plaintiff is entitled to an injunction prohibiting Defendants from using CHING-A-LING to display or sell any dietary supplement. Plaintiff has no adequate remedy at law that will compensate for the continued and irreparable harm it will suffer if Defendants' acts are allowed to continue.

28. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered damages in the amount of TWO MILLION, THREE HUNDRED THOUSAND DOLLARS. In addition, Plaintiff is entitled to treble damages, punitive and its costs and attorneys' fees. Defendants' actions are willful, wanton, and accordingly, this is an exceptional case within the meaning of 15 U.S.C. § 1117(a).

THIRD CLAIM FOR RELIEF
(False Designation of Origin)

29. The allegations set forth above are incorporated herein by this reference.

30. By Defendants' unauthorized use of CHING-A-LING, Defendants has used a false designation of origin that is likely to cause confusion, mistake, or deception as to the connection of CHING-A-LING with Plaintiff in violation of 15 U.S.C. § 1125(a).

31. Because of Defendants' conduct, Plaintiff has been irreparably harmed in its business. Moreover, Plaintiff will continue to suffer irreparable harm unless Defendants is restrained and enjoined from making false designations of origin, false descriptions, or misrepresentations regarding CHING-A-LING, and Plaintiff is entitled to an injunction

prohibiting Defendants from using CHING-A-LING to display and sell any dietary supplement. Plaintiff has no adequate remedy at law that will compensate for the continued and irreparable harm it will suffer if Defendants' acts are allowed to continue.

32. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered damages in an amount of TWO MILLION, THREE HUNDRED THOUSAND DOLLARS. In addition, Plaintiff is entitled to treble damages, punitive and its costs and attorneys' fees. Defendants' actions are willful, wanton, and accordingly, this is an exceptional case within the meaning of 15 U.S.C. § 1117(a).

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

A. That Defendants, and all of Defendants' agents, servants, employees, and attorneys, and all other persons in active concert or participation with him who receive actual notice of the injunction, be temporarily, preliminarily, and permanently enjoined from, without permission from Plaintiff:

(1) using Plaintiff's Marks, any colorable imitations thereof, or any marks confusingly similar thereto;

(2) transferring to anyone other than to the Court the name CHING-A-LING or any other names that use names, words, designations, or other symbols confusingly similar to Plaintiff's trademarks;

(3) registering, maintaining registrations for, using, offering for sale, claiming ownership of, or in any other way using the name CHING-A-LING or any other names that point to, link to, or use names, words, designations, or other symbols confusingly similar to Plaintiff's trademarks; and

(4) otherwise deceptively or unfairly competing with Plaintiff.

B. That Defendants be ordered to disclose to the Court and to Plaintiff all other domain name registrations owned or registered by Defendants in order to permit the Court and Plaintiff to consider whether any such other registration should be subject to other relief in this matter.

C. That Defendants be ordered to transfer to the Court the registration for the name CHING-A-LING or any other names that point to, link to, or use names, words, designations, or other symbols confusingly similar to Plaintiff's trademarks.

D. That Plaintiff be awarded damages in an amount of TWO MILLION, THREE HUNDRED THOUSAND DOLLARS based on Defendants's:

- (1) dilution of Plaintiff's Marks;
- (2) infringement of Plaintiff's Marks; and
- (3) false designations of origin, descriptions, and representations.

E. That Plaintiff be awarded damages and restitution, in an amount of TWO MILLION, THREE HUNDRED THOUSAND DOLLARS, under 15 U.S.C. §1117(a) for the total profits received by Defendants from, and any damages sustained by Plaintiff, as a result of, Defendants' actions.

F. That Plaintiff be awarded under 15 U.S.C. §1117(a) enhanced damages, up to three times the amount found as actual damages for Defendants' trademark infringement and false designations of origin, descriptions and representations, in an amount of TWO MILLION, THREE HUNDRED THOUSAND DOLLARS.

G. That Plaintiff be awarded punitive damages for Defendants' oppressive, fraudulent, and malicious acts of unfair competition.

H. That Defendants be ordered to deliver to Plaintiff for destruction all labels, signs, prints, packages, wrappers, receptacles, advertising materials, or products that bear marks confusingly similar to Plaintiff's Marks, or that result in any unfair competition by Defendants against Plaintiff.

I. That Defendants be ordered to make a written report within a reasonable period, to be filed with the Court, detailing the manner of Defendants' compliance with the requested injunctive and mandatory relief above.

J. That Plaintiff be awarded its reasonable attorneys' fees and costs of suit under 15 U.S.C. §1117(a) and 35 U.S.C. §285; and that Plaintiff be awarded such other relief as the Court may deem just and proper.

By: _____
RONRICO D. ROBB
PRESIDENT
ROBB ENTERPRISES, LLC
244 MADISON AVENUE, SUITE 313
NEW YORK, NY 10016
(646)-242-1478

DATED: March 31, 2016.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MI-
CHIGAN SOUTHERN DIVISION

-----x

ROBB ENTERPRISES, LLC, a New York Limited Liability Company,

Index No.,

Plaintiff,

-against-

ALI BEYDOUN, and

VENOY VALERO GAS STATION

Defendants.

-----x

INDEX OF EXHIBITS

| EXHIBIT | DESCRIPTION |
|----------------|---|
| A | Plaintiff Trademark Registration |
| B | Photograph of Plaintiff's product next to Defendant's infringing product |

EXHIBIT A



TESS - Trademark Electronic Search System

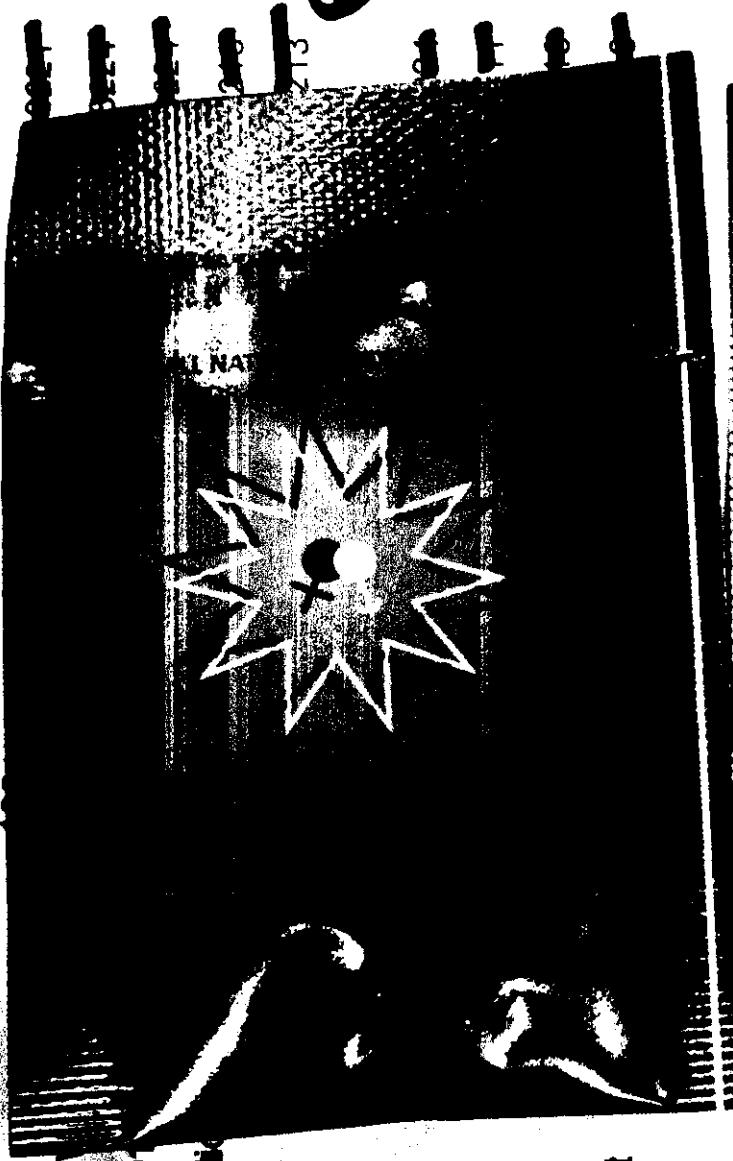
Trademarks > Trademark Electronic Search System (TESS)*TESS was last updated on Fri Mar 25 03:21:02 EDT 2016***TESS HOME** **NEW USER** **STRUCTURED** **FREE FORM** **BROWSE DICT** **SEARCH OG** **BOTTOM** **HELP****Logout** Please logout when you are done to release system resources allocated for you.**Record 1 out of 1****TSDR** **ASSIGN Status** **TTAB Status** *(Use the "Back" button of the Internet Browser to return to TESS)***CHING-A-LING**

Word Mark **CHING-A-LING**
Goods and Services IC 005. US 006 018 044 046 051 052. G & S: Dietary supplements. FIRST USE: 20120200. FIRST USE IN COMMERCE: 20120200
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 86718789
Filing Date August 7, 2015
Current Basis 1A
Original Filing Basis 1A
Published for Opposition January 5, 2016
Registration Number 4922595
Registration Date March 22, 2016
Owner (REGISTRANT) Robb Enterprises, LLC LIMITED LIABILITY COMPANY NEW YORK Suite 313 244 Madison Ave New York NEW YORK 10016
Attorney of Record Morris E. Turek
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TESS HOME **NEW USER** **STRUCTURED** **FREE FORM** **BROWSE DICT** **SEARCH OG** **TOP** **HELP**

EXHIBIT B

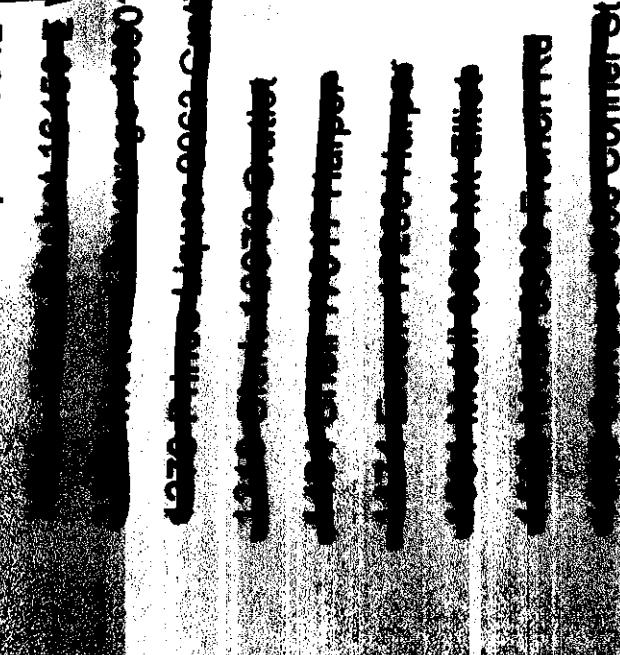
Defendant 14



Defendants



Defendant 15



4-102 2071 W. Warren
4-103 Chicago Avenue
4-104 117th & 121st
4-105 Marathon 8979 Michigan
4-106 Marathon 2010 Grand River
4-107 Marathon 1989 Michigan
4-108 Marathon 1901 E. Warren
4-109 Marathon 5004 Franklin
4-110 Shell 4661 Woodward
4-106 Shell 275 Mack

CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2016, I electronically filed the foregoing paper with the clerk of the court using the ECF system which will send notification of such filing to the following:

1. Ali Beydoun
2910 Venoy Road, Wayne, Michigan, 48184

2. Venoy Valero Gas Station
2910 Venoy Road, Wayne, Michigan, 48184

and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: NONE

Ronrico Robb
RONRICO D. ROBB
Robb Enterprises, LLC
244 Madison Avenue
Suite 313
New York, NY 10016
646-242-1478
ricorobb@gmail.com

PURTANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

 Yes No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

 Yes No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :

NONE

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PAYMENT BY ACCOUNT (if applicable)

DELIVERY OPTIONS (Customer Use Only)

SIGNATURE REQUIRED Note: The meter must check the "Signature Required" box if the meter: (1) Purchases Return Receipt service; (2) Purchases additional insurance; (3) Purchases COD service; (4) mail recipient or other secure location without attempting to obtain the addressee's signature on delivery.

Delivery Options

No Saturday Delivery (delivered next business day)
 Sunday/Holiday Delivery Required (additional fee, where available)*
 10:30 AM Delivery Required (additional fee, where available)*
*Refer to USPS.com® or local Post Office® for availability

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\$100.00 insurance included.



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|--|---|-----------------------------------|
| <input checked="" type="checkbox"/> Day | <input type="checkbox"/> 2 Day | <input type="checkbox"/> Military |
| PO ZIP Code | Scheduled Delivery Date (MM/DD/YY) | Postage |
| 10101 | 3/29/16 | \$ 22.95 |
| Date Accepted (MM/DD/YY) | Scheduled Delivery Time | Insurance Fee |
| 3/29/16 | <input type="checkbox"/> 10:30 AM <input type="checkbox"/> 3:00 PM <input checked="" type="checkbox"/> 12 NOON | COD Fee |
| Time Accepted | 10:30 AM Delivery Fee | Return Receipt Fee |
| 2:57 PM | \$ | \$ |
| Weight | Sunday/Holiday Premium Fee | Live Animal Transportation Fee |
| 0.5 lbs 0.25 oz | \$ | \$ |
| Acceptance Employee Initials: <i>[Signature]</i> | | |

DELIVERY (POSTAL SERVICE USE ONLY)

| | | |
|-----------------------------|---|--------------------|
| Delivery Attempt (MM/DD/YY) | Time | Employee Signature |
| | <input type="checkbox"/> AM <input type="checkbox"/> PM | |
| Delivery Attempt (MM/DD/YY) | Time | Employee Signature |
| | <input type="checkbox"/> AM <input type="checkbox"/> PM | |

LABEL 11-B, SEPTEMBER 2015 PSN 7690-02-000-6996

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New Lawsuit Check List

Instructions: Put a check mark in the box next to each appropriate entry to be sure you have all the required documents.

| | | | | |
|---|---|---|---|--|
| <input checked="" type="checkbox"/> | Two (2) completed Civil Cover Sheets . | | | |
| <input checked="" type="checkbox"/> | Enter the number of defendants named in your lawsuit in the blank below, add 2 and then enter the total in the blank. | | Case: 2:16-cv-11205 Judge: Cohn, Avern MJ: Whalen, R. Steven Filed: 04-01-2016 At 01:21 PM CMP Robb Enterprises v Ali Beydoun (wh) | |
| <input checked="" type="checkbox"/> | 2 + 2 = 4 Complaints. <small># of Defendants Total</small> <small>Received by Clerk: <i>[Signature]</i> Addresses are complete. . .</small> | | | |
| <input type="checkbox"/> | If any of your defendants are government agencies : Provide two (2) extra copies of the complaint for the U.S. Attorney and the Attorney General. | | | |
| If Paying The Filing Fee: | | If Asking That The Filing Fee Be Waived: | | |
| <input checked="" type="checkbox"/> | Current new civil action filing fee is attached. | | <input type="checkbox"/> | Two (2) completed Application to Proceed in District Court without Prepaying Fees or Costs forms. |
| Fees may be paid by check or money order made out to: <i>Clerk, U.S. District Court</i> <small>Received by Clerk: <i>[Signature]</i> Receipt #: <u>090519</u></small> | | <small>Received by Clerk: _____</small> | | |
| Select the Method of Service you will employ to notify your defendants: | | | | |
| Service via Summons by Self | | Service by U.S. Marshal (Only available if fee is waived) | Service via Waiver of Summons (U.S. Government cannot be a defendant) | |
| <input checked="" type="checkbox"/> | Two (2) completed summonses for each defendant including each defendant's name and address. <small>Received by Clerk: <i>[Signature]</i></small> | | <input type="checkbox"/> | Two (2) completed USM – 285 Forms per defendant, if you are requesting the U.S. Marshal conduct service of your complaint. Two (2) completed Request for Service by U.S. Marshal form. <small>Received by Clerk: _____</small> |
| <input type="checkbox"/> | <small>Received by Clerk: _____</small> | | | |
| <p style="text-align: center;">Clerk's Office Use Only</p> <p>Note any deficiencies here:</p> | | | | |